

SALLY BURKHART
As Personal Representative of
The Estate of David Burkhart
483 Nottingham Way
Campbell, California 95008

FILED

08 FEB 29 PM 1:35

RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ESTATE OF DAVID BURKHART, by and
through Sally A. Burkhart, as the personal
representative

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
VETERANS AFFAIRS; and DOES 1 TO 50,
inclusive

Defendants.

Case No.: C 07-5467 PJH

**PLAINTIFF'S CASE
MANAGEMENT STATEMENT**

Date: March 6, 2008

Time: 2:30 p.m.

Location: Courtroom 3, 17th Floor

Honorable Phyllis J. Hamilton

Pursuant to Civil Local Rule L.R. 16-9, which permits parties to file separate case management statements if one of the parties is not represented by counsel, plaintiff submits this Case Management Statement and Federal Rule of Civil Procedure 26(f) report.

1. JURISDICTION AND SERVICE.

Plaintiff completed service of the summons, complaint and other process papers on or about February 13, 2008. Defendant has not yet answered the complaint.

2. FACTS.

Plaintiff filed this action on or about October 26, 2007, alleging medical malpractice, negligence, and violation of California's Elder Abuse and Dependent Adult Civil Protection Act,

Cal. Welf. & Instit. Code § 15610.57 arising from the treatment received at the VA Palo Alto Health Care System and related facilities in Livermore, California by veteran David Burkhart.

On or about September 23, 2003 Mr. Burkhart was admitted as a patient at the VA Palo Alto hospital facility for medical care. During Mr. Burkhart's visit at the VA Palo Alto hospital facility he received medical care, prescribed medication and other medical procedures. At some time while Mr. Burkhart was receiving medical care at the VA Palo Alto hospital his medical team advised that he be transferred to the VA Nursing Home Care Unit located in Livermore, California. On October 26, 2003 Mr. Burkhart died while receiving medical care at the VA Palo Alto Health Care System, Livermore Division, Nursing Home Care Unit. The death of Mr. Burkhart was caused by the negligent care and other actions he suffered from as a result of being cared for by the VA Palo Alto Health Care System.

3. LEGAL ISSUES.

Which, if any, additional parties should be added as defendants to this lawsuit?

4. MOTIONS.

Plaintiff is not planning to file any motions at this time.

5. AMENDMENT TO PLEADINGS.

Plaintiff will be amending the Complaint to add any indispensable parties not included in the current pleadings.

6. EVIDENCE PRESERVATION.

Plaintiff is taking, and will continue to take, all reasonable steps to preserve any evidence relevant to the issues reasonably relevant in this lawsuit.

7. DISCLOSURES.

The parties have agreed to make Rule 26 initial disclosures 14 days following the date of the Case Management Conference.

8. DISCOVERY

On February 27, 2008, the parties discussed discovery in this case. Plaintiff requests no departure from the discovery rules set forth in the Federal Rules of Civil Procedure and Civil Local Rules, with the exception of the 25-interrogatory limit under Rule 33 and 10-deposition limit under Rule 30. Plaintiff has access to limited resources and would like to request waiving the written discovery limits to allow plaintiff to offset the exorbitant deposition costs with written discovery requests. Discovery is ongoing and at this time Plaintiff has not had access to all medical records prepared by the VA Palo Alto Health Care System and may require that depositions be taken from more than 10 employees of the VA Palo Alto Health Care System.

At this time, plaintiff anticipates taking discovery on the following subjects: the medical care received by Mr. Burkhardt from the VA Palo Alto Health Care System. Plaintiff anticipates propounding interrogatories, requests for admission, requests for production of documents, and anticipates deposing individual medical staff members of the VA Palo Alto Health Care System. Plaintiff may also designate experts in this case.

9. CLASS ACTIONS.

Not applicable.

10. RELATED CASES.

None known.

11. RELIEF SOUGHT.

Plaintiff seeks damages suffered by Mr. Burkhardt for personal injury, pain and suffering and death. Plaintiff also seeks damages for Mr. Burkhardt's immediate family for loss of consortium and companionship.

12. SETTLEMENT AND ADR.

The parties have agreed to attend mediation through the Court's ADR department and/or

settlement conference with a magistrate judge.

13. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES.

Plaintiff consented.

14. OTHER REFERENCES.

None known.

15. NARROWING OF ISSUES.

None known at this time.

16. EXPEDITED SCHEDULE.

Does not apply.

17. SCHEDULING.

Plaintiff proposes the following dates:

Completion of Fact Discovery	December 15, 2008
Expert Disclosure	January 31, 2009
Rebuttal expert disclosure	February 15, 2009
Completion of Expert Discovery	February 28, 2009
Last Hearing Date for Dispositive Motions	March 30, 2009
Pre-Trial Conference	April 30, 2009
Trial	June 1, 2009

18. TRIAL.

Estimated trial length is 10 days.

19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS.

None known at this time but discovery is ongoing.

20. SUCH OTHER MATTERS AS MAY FACILITATE JUST, SPEEDY AND INEXPENSIVE RESOLUTION.

None known at this time but discovery is ongoing.

Dated: February 29, 2008

Sally A. Burkhart 1/5/11

Sally A. Burkhart, as personal representative

[PROPOSED] ORDER

The Court adopts the following case management schedule:

Dated:

PHYLLIS J. HAMILTON

UNITED STATES DISTRICT JUDGE